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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,082	10/22/2003	Charles Greene	4005-031405	9297

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EXAMINER	
BLOUNT, ERIC	

ART UNIT	PAPER NUMBER
2636	

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/691,082	GREENE ET AL.	
	Examiner	Art Unit	
	Eric M. Blount	2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 July 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. **Claims 1-28** are pending in the present application. The Office acknowledges the changes made to the title. The previous objection to the Specification has been withdrawn.

Response to Arguments

2. Applicants' argue that the references used in the official action mailed April 7, 2005 do not disclose an identification apparatus, which comprises a signal receiving means that automatically moves along at least one axis of movement and is configured to identify identity source elements regardless of their position or orientation with respect to the signal receiving means. Applicants' arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 5, 10, 12, 13, 15, 18-20, 23-26, and 28, are rejected under 35 U.S.C. 102(e) as being anticipated by Black et al [Pub No. 2004/0111335 A1].

As for **claims 1, 12, and 24**, Black et al disclose an identification apparatus for use in connection with a plurality of discrete identity source elements positioned in an identification apparatus signal identification area (paragraph 1). An RFID reader functions as the identification apparatus and RFID tags are discrete identity source elements. The identification apparatus comprises at least one signal receiving mechanism (200) configured to receive a signal emitted from at least one of a plurality of identity source elements (100), the signal receiving mechanism having a field of detection comprising at least a portion of the identification apparatus signal identification area wherein at least one signal receiving mechanism is configured to automatically move along at least one axis of movement (paragraphs 1 and 17). A control mechanism (300) is in communication with the at least one signal receiving mechanism and is configured to receive process and transmit the signal received by the at least one signal receiving means (paragraphs 48, 51, and 57). Paragraph 54 discloses that the signal receiving mechanism is configured to identify identity source elements regardless of the orientation or position of the identity source element with respect to the signal receiving mechanism.

Regarding **claim 2**, Black et al disclose that the signal receiving means is an antenna (200) configured to receive radio frequency signals emitted from identity source elements, and wherein the identity source elements (100) are radio frequency transponders (paragraph 1).

As for **claims 3, 5, and 19**, Black et al teach that at least one of the identity source elements is in operative communication with at least one item (150) positioned in

the identification signal identification area (paragraph 47). The signals emitted by the identity source elements are signals having a characteristic unique to at least one item (paragraph 47).

As for **claims 10 and 23**, Black et al disclose that a display mechanism is in communication with the control mechanism and configured to provide a visual display to a user corresponding to item data (paragraph 57).

As for **claim 13**, the control mechanism is configured to receive, process, and transmit signals and initiate actions based upon signal content (paragraph 51 and 57).

Regarding **claims 15 and 26**, Black et al show a drive mechanism configured to move the signal receiving mechanism along the axis of movement (paragraph 54).

As for **claims 18 and 20**, Black et al disclose a method for receiving a signal from at least one of a plurality of discrete identity source elements positioned in an identification apparatus signal identification area (paragraph 1). The method includes the steps of automatically moving a signal receiving mechanism along at least one axis of movement (paragraph 1), receiving a signal emitted by at least one of the plurality of identity source elements by the signal receiving mechanism regardless of the identity source element orientation or position with respect to the signal receiving mechanism (paragraphs 53-56), and controlling the signal receiving mechanism by a control mechanism (400).

Regarding **claim 25**, it is inherent that the signal receiving means be powered.

As for **claim 28**, the signal receiving mechanism is moved back and for the along the axis of movement (paragraphs 15-29).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 4, 6, 11, 14-16, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black et al as applied to the claims above.

Regarding **claims 4 and 21**, Black et al teaches that the identification apparatus could be used in various environments (paragraph 47). It would have been obvious to one or ordinary skill in the art the identified item could be a medical item.

As for **claim 11**, Black et al discloses a control mechanism that comprises two parts. A processor (300) for receiving, processing, and transmitting the signal received by the at least one signal receiving mechanism and a moving means (400) for controlling the movement of the at least one signal receiving mechanism along the at least one axis of movement. Black et al show that the data-processing portion of the control mechanism may take the form of computer components. Software is provided for communicating information between the control mechanism and the signal receiving mechanism (paragraphs 57-59). It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant that if a computer were used, a user would be provided with an input mechanism such as a keyboard or mouse for communication.

As for **claim 6**, a central control device is in communication with the input/output mechanism (keyboard and display) and also in communication with the signal receiving mechanism (paragraphs 57-60). It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant that an input/output mechanism such as a keyboard and display of a computer could have been used to initiate a desired action.

As for **claims 14, 16, and 27**, Black et al disclose a feed mechanism in communication with the control mechanism and configured to power the signal receiving means (paragraph 54). It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant that any kind of motor that would drive the signal receiving means along an axis of movement would be suitable.

As for **claim 15**, the drive mechanism motivates the signal receiving mechanism to move back and forth along the axis of movement; the operation of the drive mechanism is controlled by the control mechanism (paragraphs 53, 54, and 58).

7. Claims 7-9 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black et al as applied to the claims above, in view of Burt [U.S. Patent No. 3958102].

As for **claims 7 and 8**, Black et al do not specifically disclose a power control module. In an analogous art, Burt teaches a control mechanism that comprises a power control module in communication with the input/output mechanism. It is obvious that several system components are operating from the power outputs and that each is

provided with a specified power level. As for the use of a backup power module, it is obvious and well known in the art to provide a backup power system for use in the event of an emergency or power outage. This can be viewed as a matter of design choice. It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicants to modify the teachings of Black et al to include the concept of providing a power module as taught by Burt because the modification would ensure that an appropriate power would be provided for each component in the identification apparatus.

As for **claims 9 and 22**, the central control device taught by Burt is a personal computer (column 5, lines 5-14).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Blount whose telephone number is (571) 272-2973. The examiner can normally be reached on 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eric M. Blount
Examiner
Art Unit 2636

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JEFFERY HOFSASS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600